

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

LARRY FITZPATRICK

Plaintiff,

v.

CITY OF MONTGOMERY

Defendant.

CASE NO.: 2:07-CV-528-WHA

ANSWER OF DEFENDANT CITY OF MONTGOMERY

Comes now the City of Montgomery, above named Defendant, and hereby files its answer to the complaint of the Plaintiff Larry Fitzpatrick as follows:

Jurisdiction

1. Defendant admits that jurisdiction is proper in this Court but denies all remaining allegations in paragraph 1 of Plaintiff's Complaint and demands strict proof thereof.

Venue

2. Defendant City of Montgomery admits that venue is proper in the United State District Court for the Middle District of Alabama, Northern Division.

Parties

3. Defendant City of Montgomery is unaware of the allegations in paragraph 3 therefore the Defendant denies the allegations and demands strict proof thereof.
4. Defendant City of Montgomery admits the allegations in paragraph 4.

Statement of Facts

5. Defendant City of Montgomery is unaware of the allegations in paragraph 5
therefore the Defendant denies the allegations and demands specific proof thereof.
6. Defendant City of Montgomery is unaware of the allegations in paragraph 6
therefore the Defendant denies the allegations and demands specific proof thereof.
7. Defendant City of Montgomery Denies the allegations in paragraph 7 and
demands specific proof thereof.
8. Defendant City of Montgomery Denies the allegations in paragraph 8 and
demands specific proof thereof.
9. Defendant City of Montgomery Denies the allegations in paragraph 9 and
demands specific proof thereof.
10. Defendant City of Montgomery Denies the allegations in paragraph 10 and
demands specific proof thereof.
11. Defendant City of Montgomery Denies the allegations in paragraph 11 and
demands specific proof thereof.
12. Defendant City of Montgomery Denies the allegations in paragraph 12 and
demands specific proof thereof.
13. Defendant City of Montgomery Denies the allegations in paragraph 13 and
demands specific proof thereof.
14. Defendant City of Montgomery Denies the allegations in paragraph 14 and
demands specific proof thereof.
15. Defendant City of Montgomery Denies the allegations in paragraph 15 and
demands specific proof thereof.

16. Defendant City of Montgomery Denies the allegations in paragraph 16 and demands specific proof thereof.
17. Defendant City of Montgomery Denies the allegations in paragraph 17 and demands specific proof thereof.
18. Defendant City of Montgomery Denies the allegations in paragraph 18 and demands specific proof thereof.
19. Defendant City of Montgomery is unaware of the allegations in paragraph 19 therefore the Defendant denies the allegations and demands specific proof thereof.

Count I

20. Defendant adopts and incorporates the answers and responses in paragraphs 1-19 as if fully set out herein.
21. Defendant City of Montgomery is unaware of the allegations in paragraph 21 therefore the Defendant denies the allegations and demands specific proof thereof.
22. Defendant City of Montgomery Denies the allegations in paragraph 22 and demands specific proof thereof.
23. Defendant City of Montgomery is unaware of the allegations in paragraph 23 therefore the Defendant denies the allegations and demands specific proof thereof.
24. Defendant City of Montgomery Denies the allegations in paragraph 24 and demands specific proof thereof.
25. Defendant City of Montgomery Denies the allegations in paragraph 25 and demands specific proof thereof.

26. Defendant City of Montgomery Denies the allegations in paragraph 26 and demands specific proof thereof.

Defendant denies that Plaintiff is entitled to any of the requested relief or damages.

Count II

27. Defendant adopts and incorporates the answers and responses in paragraphs 1-26 as if fully set out herein.

28. Defendant City of Montgomery Denies the allegations in paragraph 28 and demands specific proof thereof.

29. Defendant City of Montgomery Denies the allegations in paragraph 29 and demands specific proof thereof.

30. Defendant City of Montgomery Denies the allegations in paragraph 30 and demands specific proof thereof.

31. Defendant City of Montgomery Denies the allegations in paragraph 31 and demands specific proof thereof.

Defendant denies that Plaintiff is entitled to any of the requested relief or damages.

AFFIRMATIVE DEFENSES

FIRST AFFIMATIVE DENSE

1. Defendant City of Montgomery generally denies all material allegations of the Complaint and denies that Plaintiff is entitled to any relief.

SECOND AFFIRMATIVE DEFENSE

2. Defendant City of Montgomery avers that Plaintiff's Complaint and each count and cause thereof fails to state a cause of action against Defendant upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

3. Defendant City of Montgomery pleads the general issue and denies any allegations not specifically denied.

FOURTH AFFIRMATIVE DEFENSE

4. Defendant City of Montgomery pleads that it did not violate Plaintiff's civil rights.

FIFTH AFFIRMATIVE DEFENSE

5. Defendant City of Montgomery pleads voluntarily resignation and/or job abandonment by Plaintiff.

SIXTH AFFIRMATIVE DEFENSE

6. Defendant City of Montgomery pleads that all of its actions were for a legitimate, non-discriminatory business reason for all employment decisions.

SEVENTH AFFIRMATIVE DEFENSE

7. Defendant City of Montgomery pleads estoppel, waiver and laches.

EIGHTH AFFIRMATIVE DEFENSE

8. Defendant City of Montgomery pleads that Plaintiff has failed to exhaust his administrative remedies.

RESEVATION OF RIGHTS

Defendant City of Montgomery reserves the right to amend these affirmative defenses as discovered and allowed by the Court.

Respectfully submitted this the 2nd day of July, 2007.

/s/Michael D. Boyle
MICHAEL D. BOYLE (BOY032)
Staff City Attorney

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CERTIFICATE OF SERVICE

I hereby certify that foregoing has been served upon the following by electronic filing/notification of the United States District Court Middle District of Alabama on this 2nd day of July, 2007:

Joseph C. Guillot, Esq.
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/s/ Michael D. Boyle
Of Counsel